

**IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, CHANCERY DIVISION**

STATE OF ILLINOIS, by its Attorney General	)	
LISA MADIGAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
DAICEL CHEMICAL INDUSTRIES, LTD.,	)	
EASTMAN CHEMICAL COMPANY,	)	No. 02CH19575
HOECHST AKTIENGESELLSCHAFT,	)	
NUTRINOVA NUTRITION SPECIALTIES	)	<i>Parens Patriae/Class Action</i>
& FOOD INGREDIENTS, GMBH,	)	
HOECHST CELANESE CORPORATION, a/k/a	)	
CNA HOLDINGS, INC., NUTRINOVA, INC.,	)	
CELANESE AG, AVENTIS, S.A.,	)	
NIPPON GOHSEI, a/k/a NIPPON SYNTHETIC	)	
CHEMICAL INDUSTRY CO., LTD., and	)	
UENO FINE CHEMICALS INDUSTRY, LTD.,	)	
	)	
Defendants.	)	

**FIRST AMENDED COMPLAINT**

Plaintiff State of Illinois, by its Attorney General, Lisa Madigan ("Attorney General"), on behalf of itself, its political subdivisions and its natural citizens, upon information and belief alleges the following:

**I.**

**NATURE OF ACTION**

1. The State of Illinois brings this action on behalf of itself and its political subdivisions, and as parens patriae and class representative on behalf of its natural citizens. The Attorney General seeks damages, civil penalties and declaratory relief on behalf of indirect purchasers of sorbates

within the State of Illinois as a result of illegal overcharges arising from a pervasive and harmful price fixing conspiracy engaged in by the above-named Defendants. The conspiracy is in violation of the antitrust laws of the State of Illinois. The State brings this action to protect the economic health of Illinois citizens in furtherance of the State's quasi-sovereign interests.

2. Sorbates are non-toxic chemical preservatives, used as mold inhibitors in high-moisture and high-sugar food products, such as cheese and other dairy products, baked goods and other processed foods. Sorbates also are used in various beverages, and other products. Worldwide sales of sorbates are roughly \$200 million annually.

3. Beginning in or about January 1979 and continuing until in or about June 1997, Defendants and their named and unnamed coconspirators participated in a conspiracy affecting the prices of sorbates sold indirectly in the State of Illinois. As more fully alleged below, beginning on or about September 30, 1998, and on various dates thereafter, certain of the Defendants pleaded guilty to federal criminal antitrust charges brought by the United States Department of Justice. Defendants have agreed to pay at least \$132 million, collectively, in criminal fines to the federal government for participating in the sorbates price-fixing conspiracy.

4. In addition, private parties have filed actions arising from the Defendants' conspiracy in courts in California, Kansas, Tennessee, and Wisconsin, which have settled in whole or in part. By way of summary:

(a) In or about November 2000, certain of the Defendants settled a private class action filed in the United States District Court for the Northern District of California on behalf of direct purchasers nationwide for approximately \$82 million (the "California Federal Action"). Two other settlements in the case, totaling approximately \$14.5 million, have since been approved either

preliminarily or finally by the court.

(b) In or about November 2000, certain of the Defendants settled a private class action filed in Tennessee state court on behalf of indirect purchasers in Tennessee for approximately \$1.45 million.

(c) In or about January 2001, certain of the Defendants settled a private class action filed in California state court on behalf of indirect purchasers in California for approximately \$7.7 million.

(d) In or about July 2001, certain of the Defendants settled a private class action filed in Kansas state court on behalf of indirect purchasers in Kansas for approximately \$1.025 million.

(e) In or about November 2001, certain of the Defendants settled a private class action filed in Wisconsin state court on behalf of indirect purchasers in 11 States (other than Illinois) and the District of Columbia for approximately \$7.86 million.

5. Plaintiff State of Illinois has an interest in the economic health and well-being of those who reside or transact business within its boundaries. The State of Illinois also has an interest in insuring the presence of an honest marketplace in which economic activity is conducted in a competitive manner for the benefit of consumers and other marketplace participants – without collusion, fraud or deception. Defendants' illegal price-fixing conspiracy injured both the interests of the State of Illinois and of those Illinois consumers and businesses participating in the sorbates market.

6. By this action, the State of Illinois, seeks: (a) monetary relief from the Defendants, in the form of treble damages, restitution, disgorgement and civil penalties, to compensate Illinois victims of the conspiracy, and to insure that Defendants realize no monetary benefit from – and are sanctioned for – their illegal activity; and (b) such injunctive and other equitable relief as may be

appropriate to assure free and open competition involving sorbates.

## **II.**

### **JURISDICTION AND VENUE**

7. Plaintiff is the State of Illinois, represented by the Attorney General, who brings this action in the public interest on behalf of natural citizen indirect purchasers, pursuant to the Illinois Antitrust Act, 740 ILCS 10/1, et. seq. Pursuant to 740 ILCS 10/7 and acting under the Attorney's General common-law authority to bring actions in parens patriae and the statutory authority to bring class actions, the Attorney General seeks treble damages, statutory penalties, costs disbursements and attorneys fees.

8. This Court has personal jurisdiction over the Defendants. Many of the unlawful acts performed pursuant to the conspiracy, combination, contract, arrangement and agreement herein alleged had a direct effect on purchasers of products containing sorbates purchased within the State of Illinois. Each of the defendants committed torts, had co-conspirators take acts in furtherance of the conspiracy, and does business or transacts business within the State of Illinois. Exercise of jurisdiction over these defendants is consistent with principles of due process.

9. Venue as to each defendant is proper in this judicial district pursuant to 735 ILCS 5/2-101.

## **III.**

### **THE PARTIES**

10. Plaintiff State of Illinois brings this action as a sovereign state, as parens patriae, as class representative and as otherwise authorized by law on behalf itself, governmental entities, and natural persons in Illinois who purchased in Illinois products containing sorbates, and who were

injured by Defendants' illegal conduct, and as *parens patriae* on behalf of the State's natural citizens, economy and general welfare. The State of Illinois does not, however, sue on behalf of any person covered by settlements in the California Federal Action, referred to above.

11. Defendant Daicel Chemical Industries, Ltd. ("Daicel") is a corporation organized under the laws of Japan with its principal place of business in Tokyo, Japan. During the relevant time period, Daicel engaged in the business of producing sorbates, and – through Daicel (U.S.A.) Inc. and/or Mitsui & Co. (U.S.A.), Inc. – of marketing and distributing sorbates in the United States.

12. Defendant Eastman Chemical Company ("Eastman") is a corporation organized under the laws of Delaware with its principal place of business in Kingsport, Tennessee. During the relevant time period, Eastman (or its predecessors-in-interest, Eastman Chemical Division, Eastman Chemical Company, or Monsanto Company ("Monsanto")) engaged in the business of producing, marketing and distributing sorbates in the United States.

13. Defendant Hoechst Aktiengesellschaft ("Hoechst AG") is a corporation organized under the laws of Germany with its principal place of business in Frankfurt, Germany.

14. Defendant Nutrinova Nutrition Specialties & Food Ingredients, GmbH ("Nutrinova GmbH") is a corporation organized under the laws of Germany with its principal place of business in Frankfurt, Germany. During the relevant time period, Nutrinova GmbH was a direct or indirect subsidiary of Hoechst AG.

15. Defendant Hoechst Celanese Corporation ("HCC"), later renamed CNA Holdings, Inc., is a corporation organized under the laws of Delaware with its principal place of business in New Jersey. During the relevant time period, HCC was an indirect subsidiary of Hoechst AG.

16. Defendant Nutrinova, Inc. is a corporation organized under the laws of Delaware with

its principal place of business in New Jersey. During the relevant time period, Nutrinova, Inc. was a direct or indirect subsidiary of Hoechst AG.

17. Defendant Celanese AG is a corporation organized under the laws of Germany with its principal place of business in Kronberg in Taunus, Germany.

18. During the relevant time period, Hoechst AG and/or Nutrinova GmbH engaged in the business of producing sorbates and, through HCC and/or Nutrinova, Inc., of marketing and distributing sorbates in the United States.

19. In or about October 1999, Nutrinova GmbH, Nutrinova, Inc. and HCC ceased to be owned by Hoechst, and thereafter were owned by Celanese AG. Celanese AG is named as a defendant insofar as it is a successor-in-interest to Hoechst AG, Nutrinova GmbH, Nutrinova, Inc. and HCC, and thus legally responsible for their obligations.

20. Defendant Nippon Gohsei, also known as Nippon Synthetic Chemical Industry Co., Ltd. (“Nippon”), is a corporation organized under the laws of Japan with its principal place of business in Osaka, Japan. During the relevant time period, Nippon engaged in the business of producing sorbates, and – through Mitsui & Co. (USA), Inc. – of marketing and distributing sorbates in the United States.

21. Defendant Ueno Fine Chemicals Industry, Ltd. (“Ueno”) is a corporation organized under the laws of Japan with its principal place of business in Osaka, Japan. During the relevant time period, Ueno engaged in the business of producing sorbates, and – through Kanematsu USA, Inc. – of marketing and distributing sorbates in the United States.

22. Various other persons, firms or corporations, not named in this pleading, participated as co-conspirators with the named Defendants in the unlawful activity alleged in this complaint, and

performed acts and made statements in furtherance thereof.

#### **IV.**

##### **TRADE AND COMMERCE**

23. Sorbic acid, in the form of an unsaturated fatty acid, is a naturally occurring preservative that inhibits the growth of microbes. It is particularly effective in slowing the growth of fungi (yeasts and molds), and also limits the growth of certain bacteria.

24. Sorbic acid was first isolated in the mid-nineteenth century. Its anti-microbial activity was discovered in or about 1939. Sorbic acid is recognized as generally safe in foods by the food-protection agencies of industrialized nations.

25. Sorbic acid may be extracted from vegetable matter. For more than 50 years, however, nearly all sorbates have been manufactured by synthetic chemical processes. There are several feasible chemical pathways available to produce synthetic sorbates. Sorbic acid can be transformed into at least three salts – potassium sorbate, sodium sorbate, and calcium sorbate – and all four chemical forms are generally called “sorbates.”

26. Nearly all sorbates are used to inhibit the growth of yeasts, molds, and microbial rancidity in foods, beverages, and feedstuffs. Examples of products thus preserved are margarine, butter, mayonnaise, salad dressings, cheese, yogurt, pickles, low acid syrups, preserved meats and fish, dried fruit, jams, cakes, confectionary fillings, fruit juices, soft drinks, wine, and high-moisture pet foods. Sorbates can be applied to foods by mixing, dipping, spraying, dusting, or incorporation into wrapping materials. A relatively small amount of sorbates is used for some pharmaceuticals and high-moisture, low-pH, cosmetics and toiletries, as well as for other non-food products.

27. Sorbic acid and potassium sorbates are more commonly used commercially than are

sodium sorbates or calcium sorbates. Generally speaking, sorbic acid is more potent than potassium sorbates in inhibiting microbial growth. However, the preservative effect of all sorbates depends on several factors, such as the level of sorbates applied, the pH level of the substrate, temperature, gases in the atmosphere, and the presence of other preservatives.

28. Although U.S. consumption of sorbates was negligible in the 1950's, by 1978 annual U.S. consumption was almost 12 million pounds. By the late 1990's, annual U.S. consumption was roughly double that of 1978. Factors driving the increasing demand for sorbates included changes in the quantity of sweetened high-moisture food, increased shelf-life of preserved food, and heightened concerns about food spoilage and food safety.

29. From 1970 to 1996, six companies produced nearly all sorbates sold worldwide: (a) Hoechst AG (and its subsidiary Nutrinova, GmbH); (b) Daicel; (c) Nippon; (d) Ueno; (e) Monsanto, whose sorbates operations Eastman purchased in 1990; and (f) Chisso Corporation.

30. Hoechst AG began commercial production of sorbates in the late 1940's or early 1950's. From 1979 until it sold its food ingredients operations in the late 1990's, Hoechst AG was one of the largest single manufacturers of sorbates in the world. Hoechst left the industry in the late 1990's.

31. By the early 1970's, four Japanese-domiciled companies produced sorbates from plants in Japan. The four companies, in approximate order of size, beginning with the largest, were: (a) Daicel; (b) Nippon; (c) Ueno; and (d) Chisso. By 1996, the four produced about 30 million pounds of sorbates, which were sold in the U.S. and elsewhere.

32. In 1977, Monsanto began to operate what was then the world's largest sorbates plant, located at Chocolate Bayou near Alvin, Texas. This plant had the capacity to supply the entire, or



virtually entire, U.S. demand for sorbates at the time. In late 1990, Monsanto sold its sorbates business to Eastman. Eastman thereafter expanded the Texas plant's capacity. After pleading guilty to price-fixing in 1998, Eastman closed the Texas plant and left the sorbates industry.

33. No significant entry at the manufacturing level took place in the sorbates industry from 1977 to the late 1990's.

## **V.**

### **ILLEGAL CONDUCT**

34. Beginning in or about January 1979, Defendants entered into a continuing conspiracy to fix and maintain the price of sorbates sold in the United States and elsewhere, and to coordinate price increases for the sale of sorbates. In furtherance of this conspiracy, which continued until in or about June 1997, Defendants engaged in the following overt acts, among others:

- (a) Participated in meetings to discuss the prices and sales of sorbates to be sold in the United States and elsewhere.
- (b) Participated in telephone conversations and other discussions regarding the prices and volumes of sorbates to be sold in the United States and elsewhere;
- (c) Agreed, during those meetings and conversations, to charge prices at certain levels and otherwise to increase and maintain prices of sorbates to be sold in the United States and elsewhere;
- (d) Agreed, during those meetings and conversations, to allocate market shares among major producers of sorbates in the United States and elsewhere;
- (e) Issued price announcements and price quotations relating to sorbates in accordance with the agreement reached; and

- (f) Participated in meetings and conversations to discuss prices and sales of sorbates to be sold in the United States and elsewhere, and exchanged information on the sales of sorbates in the United States and elsewhere, for the purpose of monitoring and enforcing adherence to the agreed-upon prices and market shares.

35. Defendants, and their unnamed co-conspirators, participated in one or more overt acts in furtherance of the conspiracy and participated in conspiratorial activities. Each Defendant is jointly and severally liable for all damages caused by the conspiracy.

36. Defendants, and their unnamed co-conspirators, engaged in the acts described in the foregoing paragraphs for the purpose of effectuating the unlawful agreements described in this complaint.

37. On or about September 30, 1998, the Antitrust Division of the U.S. Department of Justice charged Eastman with conspiracy to fix prices in the sorbates industry. Eastman pled guilty to the criminal charges and agreed to pay a fine of \$11 million.

38. On or about May 5, 1999, the Antitrust Division of the U.S. Department of Justice charged Hoechst AG with conspiracy to fix prices in the sorbates industry. Hoechst AG pled guilty to the criminal charges and agreed to pay a fine of \$36 million. A former Hoechst employee was also charged, pled guilty, and agreed to pay a \$250,000 fine.

39. On or about July 14, 1999, the Antitrust Division of the U.S. Department of Justice charged Nippon with conspiracy to fix prices in the sorbates industry. Nippon pled guilty to the criminal charges and agreed to pay a fine of \$21 million. A Nippon employee was also charged, pled guilty, and agreed to pay a \$350,000 fine.

40. On or about July 25, 2000, the Antitrust Division of the U.S. Department of Justice charged Daicel with conspiracy to fix prices in the sorbates industry. Daicel pled guilty to the criminal charges and agreed to pay a fine of \$53 million. Three Daicel employees were also indicted for their roles in the conspiracy. These individuals have remained outside the United States, and the cases against them are still pending.

41. On or about January 23, 2001, the Antitrust Division of the U.S. Department of Justice charged Ueno with conspiracy to fix prices in the sorbates industry. Ueno pled guilty and agreed to pay a fine of \$11 million. Three Ueno employees, and a fourth Daicel employee, were also indicted for their roles in the conspiracy. These individuals have remained outside the United States, and the cases against them are still pending.

42. In addition to the U.S. Department of Justice charges, in the period October 1999 through July 2001, Eastman, Hoechst AG, Daicel and Ueno each pled to criminal antitrust charges brought by the Canadian Competition Bureau for violation of the Canadian Competition Act. These Defendants agreed to the following fines: (a) Eastman – C\$ 780,000; (b) Hoechst AG – C\$ 2.5 million; (c) Daicel – C\$ 2.46 million; and (d) Ueno – C\$1.25 million.

## **VI.**

### **EFFECTS**

43. The effect of Defendants' conspiracy to fix the prices of sorbates was artificially to increase the prices paid to purchase sorbates used in the production of many foods, beverages, and other products offered for sale to ultimate users. Persons who purchased sorbates at the artificially high prices arising from Defendants' unlawful activity, in turn, passed on all or part of the artificially high cost of sorbates to their own customers, who similarly passed on all or part of the artificially

high cost. End-users of foods, beverages, and other products containing sorbates paid all or part of the artificially high cost of sorbates arising from Defendants' conspiracy, and were, thereby, injured. Non-end-users of foods, beverages, and other products, to the extent that they did not pass on all of the artificially high cost of sorbates arising from Defendants' conspiracy, similarly were injured. End-users and non-end-users who were thus injured include government entities and natural persons in the State of Illinois.

44. Defendants' unlawful conspiracy, combination, contract, arrangement and agreement have had the following effects, among others:

- (a) Price competition in the sale of sorbates has been restrained, suppressed and eliminated throughout Illinois;
- (b) Prices for sorbates sold by Defendants and their coconspirators have been raised, fixed, maintained and stabilized at artificially high and noncompetitive levels throughout Illinois;
- (c) All Illinois consumers of sorbates have paid more for these products than they would have paid in a truly competitive market; and
- (d) Markets and customers have been divided among Defendants such that customers have not been able to purchase sorbates at prices they would have paid in a truly competitive market.

45. Each of these acts resulted in the illegal restraint of trade and commerce and acted to destroy free and open competition in our market system and, thereby, resulted in increased prices paid by the citizens of Illinois.

46. As a direct and proximate result of Defendants' unlawful conduct, government entities

and natural persons in the State of Illinois have been injured in their business and property.

## **VII.**

### **FRAUDULENT CONCEALMENT AND TOLLING**

47. Throughout the period set forth herein, Defendants have fraudulently concealed their unlawful conspiracy, combination, contract, arrangement and agreement from Plaintiff.

48. The State of Illinois did not discover, and could not have discovered through the exercise of reasonable diligence, until after the first of Defendants' guilty pleas to federal antitrust charges, the existence of the claims alleged because Defendants and their coconspirators engaged in a successful, illegal price-fixing conspiracy that, by its nature, was self-concealing. The State of Illinois did not discover, and could not have discovered through the exercise of reasonable diligence, until after each Defendant's guilty plea to federal antitrust charges, that Defendant's participation in the conspiracy.

49. The State of Illinois did not discover, and could not have discovered through the exercise of reasonable diligence, until after the first of Defendants' guilty pleas to federal antitrust charges, the existence of the claims alleged because Defendants and their co-conspirators actively, intentionally, and fraudulently concealed the existence of their conspiracy to fix, raise, maintain or stabilize the prices of sorbates sold and to manipulate and allocate the market for sorbates. The State of Illinois did not discover, and could not have discovered through the exercise of reasonable diligence, until after each Defendant's guilty plea to federal antitrust charges, that Defendant's participation in the conspiracy because Defendants and their co-conspirators actively, intentionally, and fraudulently concealed the existence of their conspiracy to fix, raise, maintain or stabilize the

prices of sorbates sold and to manipulate and allocate the market for sorbates. By way of example, Defendants discussed steps to be taken to avoid detection of the conspiracy, and agreed to stagger the timing of their pricing announcements. As a result of Defendants' active, intentional and fraudulent concealment, the statute of limitations governing this action has been tolled. The statute of limitations has also been tolled by the federal criminal antitrust actions by the U.S. Department of Justice, and as to Daicel, Nippon, Hoechst AG, Nutrinova, and Eastman by agreement of the parties.

50. By virtue of Defendants' and their coconspirators' fraudulent concealment of their conspiracy, combination, contract, arrangement and agreement, the running of any statute of limitations has been tolled and suspended with respect to any damages which Illinois sorbates purchasers have suffered as a result of the unlawful conspiracy, combination, contract, arrangement and agreement.

**CAUSES OF ACTION  
VIOLATION OF THE ILLINOIS ANTITRUST ACT**

**COUNT I - STATE'S CLAIMS**

51. Plaintiff State of Illinois incorporates by reference the preceding paragraphs 1-51 as if fully set forth herein, and further alleges against Defendants, and each of them.

52. From in or about January 1979 through in or about June 1997, Defendants engaged in a continuing conspiracy, combination, contract, arrangement and agreement, express or implied, in violation of section 10/3 of the Illinois Antitrust Act, 740 ILCS 10/3.

53. In violation of section 10/3 of the Illinois Antitrust Act, 740 ILCS 10/3, the aforementioned conspiracy, combination, contract, arrangement and agreement had the effect, among others, of causing retail prices of sorbates purchased indirectly by the citizens of Illinois to be raised, fixed, maintained and stabilized at artificially high and noncompetitive levels.

54. The State of Illinois and its political subdivision have paid prices for sorbates that were artificially inflated by the conspiracy, combination, contract, arrangement and agreement alleged herein, and were thereby injured by reason of Defendants' violations of the Illinois Antitrust Act, in an amount presently undetermined but which exceeds \$100,000.

**COUNT II - PARENS PATRIAE CLAIMS**

55. Plaintiff State of Illinois incorporates by reference the preceding paragraphs 1-54 as if fully set forth herein, and further alleges against Defendants, and each of them.

56. The natural citizens of Illinois have paid prices for sorbates that were artificially inflated by the conspiracy, combination, contract, arrangement and agreement alleged herein, and

were thereby injured by reason of Defendants' violations of the Illinois Antitrust Act, in an amount presently undetermined but which exceeds \$100,000.

57. Plaintiff State of Illinois, as *parens patriae*, represents the claims of each of these natural citizens of Illinois.

### **COUNT III - CLASS ACTION CLAIMS**

58. Plaintiff State of Illinois incorporates by reference the preceding paragraphs 1-54 as if fully set forth herein, and further alleges against Defendants, and each of them.

59. The natural citizens of Illinois have paid prices for sorbates that were artificially inflated by the conspiracy, combination, contract, arrangement and agreement alleged herein, and were thereby injured by reason of Defendants' violations of the Illinois Antitrust Act, in an amount presently undetermined but which exceeds \$100,000.

60. The class on whose behalf this action is brought is as follows:

All natural persons located within the State of Illinois that indirectly purchased Sorbates manufactured by the defendants, their affiliates or their co-conspirators during the period January 1, 1979 to December 1, 1997.

61. Plaintiff State of Illinois, as class representative, represents the claims of each of these natural citizens of Illinois pursuant to 735 ILCS 5/2-801 et seq.

62. A class action may be maintained in this action because:

- (a) The class is so numerous that joinder of all members is impractical. While the exact number of class members is unknown at this time, Plaintiff believes the number to be well over one million class members.
- (b) There are questions of fact or law, including but not limited to the issues of



conspiracy and fraudulent concealment, that are common to the class. Such questions predominate over any questions affecting only individual class members.

- (c) The Attorney General is best situated to, and will, fairly and adequately represent the interest of the class.
- (d) The class action is an appropriate method for the fair and efficient adjudication of the controversy.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff State of Illinois prays for judgment as follows:

- A. Declaring that the conspiracy, combination, contract, arrangement and agreement alleged herein be adjudged and decreed to be in violation of section 3(1) of the Illinois Antitrust Act, 740 ILCS 10/3(1), and to be an unreasonable restraint of trade in violation of section 3(2) of the Illinois Antitrust Act, 740 ILCS 10/3(2);
- B. Against Defendants, jointly and severally, and awarding damages in favor of the State of Illinois and its political subdivisions for all overcharges on indirect purchases of sorbates by the State and its political subdivisions;
- B. Against Defendants, jointly and severally, and awarding damages in favor of the State of Illinois as parens patriae for all overcharges paid on indirect purchases of sorbates by natural citizens of Illinois;
- C. Against Defendants, jointly and severally, and awarding damages in favor of the State and the class of indirect purchasers for all overcharges paid on indirect purchases of sorbates by natural citizens of Illinois;

- D. Awarding treble damages pursuant to 740 ILCS 10/7(2);
- E. Awarding civil penalties pursuant to 740 ILCS 10/7(4);
- F. Awarding costs, disbursements and reasonable attorneys fees pursuant to 740 ILCS 10/7; and
- G. Such other, further and different relief as the Court may deem just, necessary, or appropriate.

**JURY TRIAL DEMANDED**

The State of Illinois demands trial by jury of all issues so triable in this cause.

Dated this \_\_\_\_th day of May, 2004

STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL  
STATE OF ILLINOIS

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